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THIRD UNITED NATIONS CONFERENCE TO
REVIEW ALL ASPECTS OF THE SET OF
MULTILATERALLY AGREED EQUITABLE
PRINCIPLES AND RULES FOR THE CONTROL
OF RESTRICTIVE BUSINESS PRACTICES
Item 8 of the provisional agenda

Conclusions of the meeting on Competition Policies in Latin America and the Caribbean, Caracas, 23-24 October 1995

Note by the UNCTAD secretariat

The conclusions of the Meeting on Competition Policies in Latin America and the Caribbean, which constituted itself into a preparatory regional meeting for the Third Conference for the review of the Set, are transmitted below for the information of conference delegates.

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The SELA Permanent Secretariat, UNCTAD and the Venezuelan Superintendency for the Protection and Promotion of Free Competition, in partnership with the Andean Development Corporation, organized the Meeting on Competition Policies in Latin America and the Caribbean in Caracas on 23 and 24 October 1995. The purpose of the meeting was to make progress with the analysis of the situation concerning competition policies in the region with regard to standards and machinery and to prepare the position of the region for the Third United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices.

At the end of the discussions the participants agreed on the following conclusions:

1. The importance of policies, legislation and institutional structures to regulate competition in the context of the processes of modernization and economic liberalization which were being introduced in Latin America and the Caribbean and of the globalization of commercial, financial and technological exchanges was reaffirmed.

2. In the light of the foregoing, the meeting considered that exchanges of experience and views among officials responsible for competition policies and representatives of regional and international bodies were a fruitful exercise which should be repeated, preferably once every year. The proposal of the delegation of Peru to convene a meeting on the harmonization of competition standards and practices in 1996 was welcomed.

3. The important work being done by international organizations such as UNCTAD and SELA in the field of competition policies was also recognized, and the necessity of ensuring that those bodies are provided with the human and financial resources needed to meet the growing demands of member States in this field was reaffirmed.

4. In particular, it was pointed out that, with regard to the linkages between competition policies and international trade, the Third Conference to Review Restrictive Business Practices, to be held under the auspices of UNCTAD in the month immediately following (November), the regional ministerial meeting for UNCTAD IX (GRULAC, Caracas, 16-18 January 1996) and UNCTAD IX, to be held in April 1996, would offer opportunities for the countries of Latin America and the Caribbean to emphasize the importance of the subject of free competition as an instrument for development.

5. The meeting reaffirmed its commitment to the Set of Multilaterally Agreed Principles and Rules for the Control of Restrictive Business Practices, adopted by the United Nations General Assembly in 1980, which was still the only existing international instrument on the subject.

6. Independently of the manner of treatment of the subject of freedom of competition at the international level, the meeting, in application of the Set, reaffirmed the need to consolidate competition policies and to promote the adoption of national legislation.

7. It was also recognized that competition policies were essential for the proper functioning of integration schemes, within which the formulation of standards would have to be coordinated both with national legislation and with negotiations at the level of the hemisphere or of a multilateral character. The meeting was also informed of the interest of the integration secretariats represented (SIECA and CARICOM) in supporting the framing or, where appropriate, improvement of legislation on the promotion of competition in their respective subregional schemes. The meeting emphasized the need to prepare the position of the region in advance of the proceedings of the working party on competition policies to be conducted within the framework of the negotiations for a free trade zone embracing the entire hemisphere.

8. It was recognized that the work of advocacy of competition, designed to promote the incorporation of the principles of competition in the different fields of activity of the State, and of economic agents generally, is of fundamental importance in bringing about the removal of those barriers existing within government laws and regulations and in improving the functioning of markets.

9. The participants took note of the major developments in the legislative and institutional fields regarding consumer protection which were taking place within the region in parallel with the adoption of legislation concerning freedom of competition. They therefore drew attention to the need for UNCTAD and SELA to coordinate activities designed to promote knowledge of this subject and for the latter to be included in the agenda of UNCTAD IX on the basis of a request which might be submitted by GRULAC.

10. The participants noted with interest the links between legislation and policies on competition and those relating to unfair competition and the complementary nature of the two. They therefore requested that further analysis of the subject should be undertaken in the region and that the subject should be included in the agenda of a future meeting. To that end it would be desirable for GRULAC to bring to the attention of UNCTAD IX the need to study the subject.

11. The meeting emphasized the urgent need to promote technical cooperation measures in Latin America and the Caribbean to underpin the progress made in competition policies and legislation. To that end they put forward the following suggestions, which are designed to develop a "competition culture" in the region:

11.1 A regional technical cooperation programme should be adopted to meet the needs both of countries which already have legislation and/or institutions responsible for competition and of countries which are beginning to develop legislative and institutional machinery. The meeting requested the forum of technical cooperation directors in Latin America and the Caribbean to place the subject of competition policies on the agenda of their next meeting.

11.2 Within the context of that programme education campaigns should be designed for consumers and entrepreneurs within which both could derive benefit from experience both within and outside the region.

11.3 The subject of competition policies should be included within the activities conducted by the World Bank and the IDB to support the modernization of the State - including both the legislature and the judiciary.

11.4 It is recommended that a regional directory of legislation and institutions concerned with competition be compiled. To that end the Permanent Secretariat of SELA, with the assistance of the Venezuelan superintendency for the promotion of competition (PRO-COMPETENCIA) and UNCTAD, should accept the task of centralizing the information which member States would undertake to furnish to it in accordance with a schedule which will be sent to them in due time. The meeting also recommended the establishment of a database for the storage of information on doctrines and other basic information on competition policies in Latin America and the Caribbean.

11.5 The international financial organizations and the donor countries engaged in bilateral cooperation should be invited to support a programme of this kind as well as individual projects designed to support competition policies in Latin America and the Caribbean.

11.6 A regional scheme of internships on competition policies and legislation, embracing the national institutions in the region, should be established. Under this scheme an institution in Latin America and the Caribbean would offer officials of another country internships at their headquarters for training and exchanges of ideas on a specified subject. The country of each intern, for its part, would meet the costs of travel and subsistence. The services provided under bilateral cooperation agreements could also benefit from internships of this type if a number of countries were involved. The Permanent Secretariat of SELA, in cooperation with UNCTAD, might coordinate the setting up of this scheme.

11.7 The technical cooperation projects relating to intellectual property existing within the SELA and WIPO should be linked to the activities relating to competition policy mentioned in the previous points.

11.8 Specialized teaching programmes on freedom of competition should be promoted in the universities of Latin America and the Caribbean, in particular for students of law, economics, public administration, business management and international relations. UNCTAD's Training in the Field of Foreign Trade Programme (TRAINFORTRADE) should be associated with this campaign.

12. As regards the third review conference, participants agreed on the following:

12.1 The carrying out of studies on subjects of priority interest for Latin America and the Caribbean, such as: (a) the deregulation and privatization of public services and monopolies; (b) the relationship between free competition and intellectual property; (c) distribution channels in the processes of economic liberalization; and (d) the relationship between the strategies of the services sector and competition policies.

12.2 A study should be made of the distortions of competition attributable to financing machinery and procedures, such as those of export credit agencies favouring particular enterprises participating in international calls for tenders.

12.3 Exchanges of information and consultations on restrictive business practices affecting more than one country should be strengthened.

12.4 The United Nations General Assembly should be requested to convene the fourth review conference for the year 2000.

12.5 The United Nations General Assembly should be requested to decide to change the name of the Intergovernmental Group of Experts on Restrictive Business Practices to Intergovernmental Group of Experts on Competition Policy and Legislation.